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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/811,098 | 03/25/2004 | Richard Watson | 21742.NP | 9713 |

20551 7590 04/12/2006

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EXAMINER

WALCZAK, DAVID J

ART UNIT PAPER NUMBER

3751

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/811,098 | Applicant(s) WATSON, RICHARD | |
| | Examiner David J. Walczak | Art Unit 3751 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) 10 and 20 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-8, 11-18 and 21-26 is/are rejected.
 7) ☒ Claim(s) 9 and 19 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/4/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election

Applicant's election without traverse of Species II, Sub-species A in the reply filed on 3/7/06 is acknowledged. The Applicant contends that all of claims 1-26 are readable thereon, however, claims 10 and 20 define a valve, which is not included in the elected embodiment. Accordingly, claims 1-9, 11-19 and 21-26 are readable on the elected embodiment and will be examined herein. Claims 10 and 20 are withdrawn from further consideration.

It is here noted that it appears that claim 10 should depend from claim 1 (as opposed to claim 7) in that no embodiment discloses both a serpentine channel (claim 7) and a valve. See claim 20, which also defines the valve but depends from independent claim 13.

Specification

The disclosure is objected to because of the following informalities: Reference characters 10a, 10b, 38a and 40a (Figures 6 and 7) are not present in any of the drawings. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3751

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 13-19 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rayder. In regard to claim 1, Rayder discloses a liquid applicator device comprised of an applicator head 24, a reservoir 10 removably coupled to the applicator head, a liquid delivery conduit 20, 21, 27 associated with applicator head and in fluid communication with the reservoir and a plurality of bristles 26 coupled to the applicator head. In regard to claim 2, the Rayder device dispenses paint and/or varnish (see line 18). In regard to claims 3 and 4, a flexible delivery tube 28 extends from the liquid delivery conduit and terminates among the bristles. In regard to claim 5, the delivery tube is centered within the bristles. In regard to claim 6, the reservoir 10 has flexible side walls which are deformed by pressure to expel the fluid (see lines 34-39). In regard to claim 7, the shape of the conduit inherently acts as a flow restrictor. In regard to claim 8, channel 20, 21 and 27 defines a “serpentine channel”. In regard to claims 13-19, as discussed supra, the Rayder device discloses the claimed structure, including a reservoir (made up of elements 10 and 19) which is removably engaged “within” the head 24 and a conduit 20, 21 27 wherein portion 27 is within the applicator head. In regard to claims 23-25, the method as claimed is inherent in the operation of the Rayder device.

Claim Rejections - 35 USC § 103

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Claims 11, 12, 21, 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayder in view of Goncalves. Although the Rayder reference does not disclose the use of a cap, attention is directed to the Goncalves reference, which discloses another varnish dispensing brush where a cap having a protrusion 50 extending therearound engages with a indentation (under bead 28) extending around the applicator head in order to enable the cap to seal the brush when the protrusion and indentation are engaged (see column 2, lines 31-39, column 3, lines 39-40, column 4, lines 27-37 and Figure 4). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such cap onto the Rayder device wherein the cap sealing engage the applicator head via a protrusion/indention arrangement in order to enable the bristles on the Rayder device to be sealed when not in use.

Allowable Subject Matter

Claims 9 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Chennell, Avery and Stubenrauch reference are cited for disclosing other dispensing brushes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Walczak
Primary Examiner
Art Unit 3751

DJW
4/8/06